

ORDER NO. 5449

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Before Commissioners:

Robert G. Taub, Chairman;
Michael Kubayanda, Vice Chairman;
Mark Acton;
Ann C. Fisher; and
Ashley E. Poling

Review of Calculation of Competitive
Products Assumed Income Tax, 2019

Docket No. T2020-1

ORDER APPROVING THE CALCULATION OF THE FY 2019
ASSUMED FEDERAL INCOME TAX ON COMPETITIVE PRODUCTS

(Issued March 9, 2020)

I. INTRODUCTION

The Postal Service is required each year to calculate its assumed Federal income tax on competitive products income and to transfer the amount of the assumed Federal income tax from the Competitive Products Fund to the Postal Service Fund. 39 U.S.C. § 3634; 39 C.F.R. § 3060.40 *et seq.* On January 10, 2020, the Postal Service filed its calculation of the assumed Federal income tax on competitive products income for Fiscal Year (FY) 2019.¹ For the reasons discussed below, the Commission approves the calculation in accordance with 39 C.F.R. § 3060.42.

¹ Notice of the United States Postal Service of Submission of the Calculation of the FY 2019 Assumed Federal Income Tax on Competitive Products, January 10, 2020 (Notice). The calculation of the FY 2019 assumed Federal income tax on competitive products is attached to the Notice. Notice, Attachment.

II. BACKGROUND

On January 10, 2020, in accordance with 39 C.F.R. § 3060.40(c), the Postal Service filed the Notice, along with a supporting attachment containing the Postal Service's calculation of the FY 2019 assumed Federal income tax on competitive products net income. The calculation details the FY 2019 competitive product revenue and expenses, the competitive products net income before tax, and the assumed Federal income tax on that income. Notice, Attachment.

For FY 2019, the Postal Service reports a net income from competitive products of \$8.249 billion.² After subtracting the \$3.098 billion required institutional cost contribution,³ the Postal Service reports a net income before tax of \$5.151 billion. Notice, Attachment. Excluding permanent differences, the Postal Service reports a taxable competitive products income of \$5.151 billion.⁴ Multiplying its taxable income by a tax rate of 21 percent, the Postal Service calculates a FY 2019 assumed Federal income tax on competitive products income of \$1.082 billion. *Id.*

On January 14, 2020, the Commission issued an order establishing this docket, appointing a Public Representative, and providing interested persons with an opportunity to comment.⁵

² *Id.* For simplicity, this Order rounds all non-whole figures to three decimal places.

³ The required institutional cost contribution for FY 2019 was 8.8 percent of the Postal Service's total institutional costs. 39 C.F.R. § 3015.7(c); see also Docket No. RM2017-1, Order Adopting Final Rules Relating to the Institutional Cost Contribution Requirement for Competitive Products, January 3, 2019 (Order No. 4963) (establishing a new formula-based methodology to determine the appropriate share each year). \$3.098 billion is 8.8 percent of the Postal Service's total FY 2019 institutional costs of \$35.199 billion as reported in the Postal Service's Annual Compliance Report. Docket No. ACR2019, Library Reference USPS-FY19-1, December 27, 2019. The Commission's review of this figure (*i.e.*, \$3.098 billion) is under review by the Commission in Docket No. ACR2019. The Commission, however, accepts this figure as correct for purposes of approving the calculation of the FY 2019 assumed Federal income tax on competitive products. Any revisions to this figure should not have a material impact on the amount of assumed tax transferred to the Postal Service Fund.

⁴ Notice, Attachment. The Postal Service reports its taxable income consistent with how it reports income for financial reporting purposes (*i.e.*, there are no permanent differences).

⁵ Notice and Order Concerning the Review of the Calculation of the FY 2019 Assumed Federal Income Tax on Competitive Products, January 14, 2020 (Order No. 5406).

III. COMMENTS

The Public Representative filed comments on March 4, 2020.⁶ No other interested person filed comments. In preparing her comments, the Public Representative reviewed the Notice, its attachment, and a library reference filed in Docket No. ACR2019. PR Comments at 3. She also notes the changes to chapter 1 of the Internal Revenue Code and the amendments to Commission regulations governing the calculation of the assumed Federal income tax. *Id.* Based on the Postal Service's calculation and the Postal Service's statement in Docket No. ACR2019 that it would transfer the assumed Federal income tax to the Postal Service Fund by January 15, 2020, she concludes that the calculation and supporting documentation are consistent with 39 U.S.C. § 3634 and 39 C.F.R. § 3060.40 *et seq.* *Id.* at 3-4.

IV. COMMISSION ANALYSIS

The Commission has reviewed the Notice, the attached calculation of the assumed Federal income tax on competitive products income for FY 2019, and the Public Representative's comments. For the reasons set forth below, the Commission approves the calculation of the assumed Federal income tax for FY 2019.

The Postal Accountability and Enhancement Act of 2006 requires that the Postal Service annually calculate the assumed Federal income tax on competitive products income.⁷ Section 3634(a)(1) of title 39 of the U.S. Code defines the term "assumed Federal income tax on competitive products income" as "the net income tax that would be imposed by chapter 1 of the Internal Revenue Code of 1986 on the Postal Service's assumed taxable income from competitive products for the year." Sections 3634(b) and (c) of title 39 require that the Postal Service calculate the assumed Federal income tax on competitive products for the year and transfer the amount from the Competitive

⁶ Public Representative Comments on Postal Service Notice Concerning Submission of FY 2019 Assumed Federal Income Tax on Competitive Products, March 4, 2020 (PR Comments).

⁷ Postal Accountability and Enhancement Act (PAEA), Pub. L. 109-435, 120 Stat. 3198 (2006).

Products Fund to the Postal Service Fund by the January 15th that follows the close of the fiscal year.

The Commission's regulations require that the Postal Service develop a Competitive Products Income Statement for each fiscal year, as shown in Table 1 of 39 C.F.R. § 3060.21. The Commission recently amended its regulations to account for changes to the Internal Revenue Code.⁸ Section 3060.40(a) of title 39 of the Code of Federal Regulations now requires that the Postal Service use the Competitive Products Income Statement to calculate the assumed Federal income tax on competitive products income in compliance with chapter 1 of the Internal Revenue Code by computing tax liability at the applicable corporate tax rate.⁹ The Postal Service is not required to calculate or pay estimated Federal income taxes or state, local, or foreign income taxes. 39 C.F.R. § 3060.40(d), (e).

The attachment to the Notice contains two tables and a schedule based on IRS Form 1120. The first table uses the first eleven lines of the Competitive Products Income Statement to calculate the FY 2019 competitive products net income before tax. Notice, Attachment. The second table calculates the assumed Federal income tax on competitive products income. *Id.* Multiplying a taxable income of \$5.151 billion by a 21-percent tax rate, the Postal Service calculates an assumed Federal income tax on competitive products income for FY 2019 of \$1.082 billion. *Id.*

The Commission approves of the calculation of the assumed Federal income tax on competitive products net income for FY 2019. The calculation contains the information required by 39 C.F.R. §§ 3060.40 and 3060.41. The Commission finds that the Postal Service accurately calculated its FY 2019 competitive products net income before tax and taxable income. In addition, the Commission finds that the 21-percent

⁸ See Docket No. RM2019-5, Order Amending Assumed Federal Income Tax Calculation Rules, June 27, 2019 (Order No. 5136) (requiring the calculating to be made using the applicable corporate tax rate in chapter 1 of the Internal Revenue Code, without specifying the particular rate or section).

⁹ Chapter 1 of title 26 prescribes, among other things, how the Federal income tax liability of corporations is calculated. The amount of Federal income tax imposed on corporations is specified in 26 U.S.C. § 11.

tax rate is the appropriate section 11 tax rate for the Postal Service's FY 2019 taxable competitive products income.¹⁰ Thus, in accordance with 39 C.F.R. § 3060.42, the Commission approves the Postal Service's FY 2019 calculation of the assumed Federal income tax on competitive products income.

V. ORDERING PARAGRAPH

It is ordered:

In accordance with 39 C.F.R. § 3060.42, the Commission approves the Postal Service's FY 2019 calculation of the assumed Federal income tax on competitive products income.

By the Commission.

Erica A. Barker
Secretary

¹⁰ See 26 U.S.C. § 11; Internal Revenue Service Form 1120 (2019), Schedule J, Line 2 instructions (available at: <https://www.irs.gov/pub/irs-prior/i1120--2019.pdf>).